

1 THE HONORABLE JOHN H. CHUN  
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7 **UNITED STATES DISTRICT COURT**  
8 **WESTERN DISTRICT OF WASHINGTON**  
9 **AT SEATTLE**

10 FEDERAL TRADE COMMISSION, *et al.*,

11 Plaintiffs,

12 v.

13 AMAZON.COM, INC., a corporation,

14 Defendant.

15 **CASE NO.: 2:23-cv-01495-JHC**

16 **JOINT STATUS REPORT**

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1 Pursuant to the February 13, 2024 Case Management Order (“CMO”), Plaintiffs Federal  
2 Trade Commission (“FTC”) and the states and territories of New York, Connecticut, New  
3 Hampshire, Oklahoma, Oregon, Pennsylvania, Delaware, Maine, Maryland, Massachusetts,  
4 Michigan, Minnesota, Nevada, New Jersey, New Mexico, Puerto Rico, Rhode Island, Vermont,  
5 and Wisconsin, by and through their respective Attorneys General (together, “Plaintiff States,”  
6 and collectively with the FTC, “Plaintiffs”) and Defendant Amazon.com, Inc. (“Amazon”)  
7 submit this joint status report in advance of the parties’ December 2, 2024 status conference with  
8 the Court.

9 **I. STATUS OF LITIGATION**

10 Plaintiffs filed the Complaint on September 26, 2023, Dkt. #1, and filed an Amended  
11 Complaint adding Puerto Rico and Vermont as Plaintiffs on March 14, 2024, Dkt. #170. Amazon  
12 filed a Motion to Dismiss the Complaint on December 8, 2023, Dkt. #127, which the parties  
13 agreed and the Court ordered would be deemed to be Amazon’s Motion to Dismiss the Amended  
14 Complaint, Dkt. #175. The Court granted the motion as to certain state law claims and otherwise  
15 denied the motion on September 30, 2024, and granted leave to amend certain state law claims,  
16 Dkt. #289. The Court also granted Plaintiffs’ motion to bifurcate. Dkt. #289.

17 Plaintiffs filed a Second Amended Complaint on October 31, 2024, amending state law  
18 claims under the laws of Maryland, Pennsylvania, and New Jersey. Dkt. #326. Amazon filed a  
19 motion to dismiss the amended Pennsylvania and New Jersey claims on November 14, 2024.  
20 Dkt. #340. Amazon also filed an Answer to the Second Amended Complaint on November 14,  
21 2024. Dkt. #341.

22 On February 13, 2024, the Court issued a Case Scheduling Order, Dkt. #159, that  
23 included the following key dates:

1                   August 8, 2025                   Close of Fact Discovery  
 2                   February 23, 2026               Close of Expert Discovery  
 3                   April 6, 2026                   Deadline to File Dispositive and *Daubert* Motions  
 4   (with motions noted for June 15, 2026)  
 5                   September 28, 2026           Final Pretrial Conference  
 6                   October 13, 2026              Bench Trial

7                   The Court has ordered certain interim deadlines for Amazon's productions of documents  
 8 (the first of which has been satisfied), Dkt. ## 288 and 343, including:  
 9                   October 21, 2024 (approx.): Amazon makes its first production of the Initial Set of  
 10   documents  
 11   Amazon makes rolling productions every 2-3 weeks  
 12                   January 31, 2025:               Amazon substantially completes its production of the Initial  
 13   Set of documents  
 14                   February 21, 2025:             Amazon provides a privilege log for all documents  
 15   withheld from or redacted in the Initial Set of documents,  
 16   consistent with the provisions of Dkt. ## 256 and 313  
 17                   March 24, 2025:               Amazon substantially completes its production of the  
 18   Second Set of documents  
 19                   April 14, 2025:               Amazon provides a privilege log for all documents  
 20   withheld from or redacted in the Second Set of documents,  
 21   consistent with the provisions of Dkt. ## 256 and 313

22                   The parties have been engaged in fact discovery for approximately thirteen months.  
 23                   Approximately eight months remain before the scheduled close of fact discovery.  
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1       **II. JOINT REPORT ON THE STATUS OF DISCOVERY**

2           **A. Party Discovery**

3           The parties are continuing to meet and confer regarding various discovery issues,  
 4 including:

- 5           • Amazon's search for and production of documents from certain non-custodial  
                  sources;
- 6           • Amazon's proposed "spam" protocol for custodians Andy Jassy and Jeff Bezos;
- 7           • The date range for certain productions of Amazon's structured data;
- 8           • Amazon's responses to Plaintiffs' RFP No. 68, which concerns instructions on  
                  how to draft Amazon's Global Competition Reviews and related issues around  
                  Amazon's attorney-client privilege claims;
- 9           • The sufficiency of Amazon's responses to Plaintiffs' interrogatories; and
- 10          • Plaintiffs' responses to Amazon's July 30 interrogatories, which seek discovery  
                  on topics such as the identities of other participants in the relevant markets and  
                  the remedies Plaintiffs seek, among others.

11          The parties are hopeful that they will be able to resolve or narrow their disputes through further  
 12 discussions, but will file discovery motions promptly if the parties come to an impasse. The  
 13 Court has set a December 9, 2024 deadline for Plaintiffs to file motions regarding any disputes  
 14 regarding non-custodial sources or Amazon's proposed "spam" protocol for custodians Andy  
 15 Jassy and Jeff Bezos. Dkt. #339.

16           **B. Third Party Discovery**

17          Plaintiffs have served 24 document subpoenas to third-party online retailers and  
 18 marketplaces, third-party logistics providers, and sellers, and will continue to issue additional  
 19

1 subpoenas on a rolling basis as needed. Plaintiffs are conferring with third-party subpoena  
2 recipients regarding the scope of their responses to Plaintiffs' requests.

3 Amazon has served 33 third-party subpoenas seeking documents from online retailers  
4 and marketplaces, third-party logistics providers, and sellers. Amazon is in the process of  
5 conferring with those parties to reach agreement on the documents to be produced in response to  
6 Amazon's requests. Amazon expects to serve third-party document subpoenas on additional third  
7 parties, including additional retailers, fulfillment and logistics providers, and other relevant  
8 parties.

9 The parties have agreed to regular exchanges of information about subpoenas to third  
10 parties and third parties' responses and objections. The parties have also agreed to hold joint  
11 meet and confers when requested by third parties in order to minimize the burden of discovery  
12 for them.

13 The parties have taken six depositions of third-party witnesses to date, including  
14 coordinated depositions. Six third-party depositions have been scheduled in December 2024 or  
15 early 2025.

16 **C. Economics Day**

17 The parties understand that the Court intends to discuss an Economics Day during the  
18 December 2, 2024 Status Conference. For the Court's reference, the parties submitted their Joint  
19 Statement Regarding Proposed Economics Day Hearing on June 27, 2024, Dkt. #263, and a list  
20 of agreed topics for Economics Day on October 1, 2024, Dkt. #290.

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### **III. PENDING MOTIONS**

The chart below lists the motions that are pending before the Court:

<b>Motion</b>	<b>Response</b>	<b>Reply</b>	<b>Notice Date</b>
Plaintiffs' Motion to Compel (Dkt. #331) (11/5/2024)	Amazon's Response (Dkt. #350) (11/20/2024)	Plaintiffs' Reply (Dkt. #_____) (11/26/2024)	November 26, 2024
Amazon's Motion to Dismiss Counts XIV, XV, and XIX of Plaintiffs' Second Amended Complaint (Dkt. #340) (11/14/2024)			December 12, 2024

Dated: November 25, 2024

Respectfully submitted,

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